

D.C.” and shall show fully all facts and laws on the basis of which the claimant alleges that such double taxation has resulted or will result. If the Commissioner determines that there is an appropriate basis for the claim under the convention, he shall take up the matter with the Director of the Federal Tax Administration with a view to arranging an agreement of the character contemplated by Article XVII.

§ 509.121 Beneficiaries of an estate or trust.

(a) *Qualified beneficiary.* If he otherwise satisfies the requirements of the respective articles concerned, a nonresident alien who is a resident of Switzerland and who is a beneficiary of an estate or trust shall be entitled to the exemption from, or reduction in the rate of, United States tax granted by Articles VI, VII, VIII, and XIV of the convention with respect to dividends, interest, and royalties and other like amounts, to the extent that (1) any amount paid, credited, or required to be distributed by such estate or trust to such beneficiary is deemed to consist of such items and (2) such items would, without regard to the convention, be includible in his gross income.

(b) *Amounts otherwise includible in gross income of beneficiary.* For the determination of amounts which, without regard to the convention, are includible in the gross income of the beneficiary, see subchapter J of chapter 1 of the Internal Revenue Code of 1954, and the regulations thereunder.

§ 509.122 Swiss partnerships.

(a) *General.* Whether an individual, corporation, or other entity, a member of a partnership created or organized under Swiss laws, is subject to United States tax upon such person’s distributive share of the income of such partnership depends upon both the status of the partnership and the status of such member.

(b) *Citizen partner.* A citizen or resident of the United States, or a domestic corporation, is subject to United States tax upon such person’s distributive share of the income of such partnership as though the convention had not come into effect, but subject to the

provisions of § 509.118; even though other members, by reason of benefits granted by the convention, are not subject to United States tax upon their distributive share of such income.

(c) *Noncitizen partner.* In any case in which income is derived from sources within the United States by a partnership created or organized under Swiss laws, any member of such partnership who has a permanent establishment in the United States or who is either a nonresident alien not a resident of Switzerland or is a foreign corporation which is not Swiss is not entitled, with respect to such member’s distributive share of such income, to any benefit granted by the convention solely to nonresident aliens residing in Switzerland, or to Swiss corporations or other entities, having no permanent establishment in the United States. Conversely, any member of such partnership who individually complies with the requirements for obtaining any such benefit will be entitled thereto with respect to such member’s distributive share of such income. A member of a Swiss partnership which has a permanent establishment in the United States shall likewise be considered to have a permanent establishment in the United States.

PARTS 510—512 [RESERVED]

PART 513—Ireland

Subpart—Withholding of Tax

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513.11 Refund of income tax withheld during 1951.

AUTHORITY: 53 Stat. 32; 26 U.S.C. 62.

SOURCE: Treasury Decision 5897, 17 FR 3633, Apr. 24, 1952, unless otherwise noted. Redesignated at 25 FR 14022, Dec. 31, 1960.

Subpart—Withholding of Tax

§ 513.1 Introductory.

(a) The income tax convention between the United States and the Republic of Ireland, signed September 13, 1949, proclaimed by the President of the United States on December 24, 1951, and effective (as respects the United States tax) for taxable years beginning on or after January 1, 1951, referred to in this subpart as the convention, provides in part as follows:

ARTICLE I

(1) The taxes which are the subject of the present Convention are:

(a) In the United States of America: The Federal income taxes, including surtaxes (hereinafter referred to as United States tax).

(b) In Ireland: The income tax (including surtax) and the corporation profits tax (hereinafter referred to as Irish tax).

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting Party subsequently to the date of signature of the present Convention.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires—

(a) The term “United States” means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and of Hawaii, and the District of Columbia.

(b) The term “Ireland” means the Republic of Ireland and the term “Irish” has a corresponding meaning.

(c) The terms “territory of one of the Contracting Parties” and “territory of the other Contracting Party” mean the United States or Ireland as the context requires.

(d) The term “United States corporation” means a corporation, association or other like entity created or organized in or under the laws of the United States.

(e) The term “Irish corporation” means any kind of juridical person created under the laws of Ireland.

(f) The terms “corporation of one Contracting Party” and “corporation of the

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other Contracting Party” mean a United States corporation or an Irish corporation as the context requires.

(g) The term “resident of Ireland” means any person (other than a citizen of the United States or a United States corporation) who is resident in Ireland for the purposes of Irish tax and not resident in the United States for the purposes of United States tax. A corporation is to be regarded as resident in Ireland if its business is managed and controlled in Ireland.

(h) The term “resident of the United States” means any individual who is resident in the United States for the purposes of United States tax and not resident in Ireland for the purposes of Irish tax, and any United States corporation and any partnership created or organized in or under the laws of the United States, being a corporation or partnership which is not resident in Ireland for the purposes of Irish tax.

(i) The term “Irish enterprise” means an industrial or commercial enterprise or undertaking carried on by a resident of Ireland.

(j) The term “United States enterprise” means an industrial or commercial enterprise or undertaking carried on by a resident of the United States.

(k) The terms “enterprise of one of the Contracting Parties” and “enterprise of the other Contracting Party” mean a United States enterprise or an Irish enterprise, as the context requires.

(l) The term “permanent establishment” when used with respect to an enterprise of one of the Contracting Parties means a branch, management, factory or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the Contracting Parties shall not be deemed to have a permanent establishment in the territory of the other Contracting Party merely because it carries on business dealings in the territory of such other Contracting Party through a bona fide commission agent or broker acting in the ordinary course of his business as such. The fact that an enterprise of one of the Contracting Parties maintains in the territory of the other Contracting Party a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one Contracting Party has a subsidiary corporation which is a corporation of the other Contracting Party or

which is engaged in trade or business in the territory of such other Contracting Party (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(2) For the purposes of Article VI, VII, VIII, IX and XIV a resident of Ireland shall not be deemed to be engaged in trade or business in the United States in any taxable year unless such resident has a permanent establishment situated therein in such taxable year. The same principle shall be applied, mutatis mutandis, by Ireland in the case of a resident of the United States.

(3) In the application of the provisions of the present Convention by one of the Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Party relating to the taxes which are the subject of the present Convention.

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ARTICLE VI

(1) The rate of United States tax on dividends derived from a United States corporation by a resident of Ireland who is subject to Irish tax on such dividends and not engaged in trade or business in the United States shall not exceed 15 per cent: provided that such rate of tax shall not exceed five per cent if such resident is a corporation controlling, directly or indirectly, at least 95 per cent of the entire voting power in the corporation paying the dividend, and not more than 25 per cent of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends received from its own subsidiary corporations. Such reduction of the rate to five per cent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

(2) Dividends derived from sources within Ireland by an individual who is (a) a resident of the United States, (b) subject to United States tax with respect to such dividends, and (c) not engaged in trade or business in Ireland, shall be exempt from Irish surtax.

(3) Either of the Contracting Parties may terminate this Article by giving written notice of termination to the other Contracting Party, through diplomatic channels, on or before the thirtieth day of June in any calendar year after the calendar year in which the exchange of the instruments of ratification takes place and in such event paragraph (1) hereof shall cease to be effective as to United States tax on and after the first day of January, and paragraph (2) hereof shall cease to be effective as to Irish tax on and after the 6th day of April, in the calendar

year next following that in which such notice is given.

ARTICLE VII

(1) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) derived from sources within the United States by a resident of Ireland who is subject to Irish tax on such interest and not engaged in trade or business in the United States, shall be exempt from United States tax; but such exemption shall not apply to such interest paid by a United States corporation to a corporation resident in Ireland controlling, directly or indirectly, more than 50 per cent of the entire voting power in the paying corporation.

(2) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) derived from sources within Ireland by a resident of the United States who is subject to United States tax on such interest and not engaged in trade or business in Ireland, shall be exempt from Irish tax; but such exemption shall not apply to such interest paid by a corporation resident in Ireland to a United States corporation controlling, directly or indirectly, more than 50 per cent of the entire voting power in the paying corporation.

ARTICLE VIII

(1) Royalties and other amounts paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulas, trade-marks, and other like property, and derived from sources within the United States by a resident of Ireland who is subject to Irish tax on such royalties or other amounts and not engaged in trade or business in the United States, shall be exempt from United States tax.

(2) Royalties and other amounts paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulas, trademarks, and other like property, and derived from sources within Ireland by a resident of the United States who is subject to United States tax on such royalties or other amounts and not engaged in trade or business in Ireland shall be exempt from Irish tax.

(3) For the purposes of this Article, the term "royalties" shall be deemed to include rentals in respect of motion picture films.

ARTICLE IX

(1) The rate of United States tax on royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and on rentals from real property

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or from an interest in such property, derived from sources within the United States by a resident of Ireland who is subject to Irish tax with respect to such royalties or rentals and not engaged in trade or business in the United States, shall not exceed 15 per cent; provided that any such resident may elect for any taxable year to be subject to United States tax as if such resident were engaged in trade or business in the United States.

(2) Royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and rentals from real property or from an interest in such property, derived from sources within Ireland by an individual who is (a) a resident of the United States, (b) subject to United States tax with respect to such royalties and rentals, and (c) not engaged in trade or business in Ireland, shall be exempt from Irish surtax.

ARTICLE XX

(1) Any salary, wage, similar remuneration, or pension, paid by the Government of the United States to an individual (other than a citizen of Ireland who is not also a citizen of the United States) in respect of services rendered to the United States in the discharge of governmental functions, shall be exempt from Irish tax.

(2) Any salary, wage, similar remuneration, or pension, paid by the Government of Ireland to an individual (other than a citizen of the United States who is not also a citizen of Ireland) in respect of services rendered to Ireland in the discharge of governmental functions, shall be exempt from United States tax.

(3) The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting Parties for purposes of profit.

* * * * *

ARTICLE XII

(1) Any pension (other than a pension to which Article X applies), and any life annuity, derived from sources within the United States by an individual who is a resident of Ireland shall be exempt from United States tax.

(2) Any pension (other than a pension to which Article X applies), and any life annuity, derived from sources within Ireland by an individual who is a resident of the United States shall be exempt from Irish tax.

(3) The term "life annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to

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make the payments in consideration of money paid.

* * * * *

ARTICLE XV

(1) Dividends and interest paid, on or after the first day of January in the calendar year in which the exchange of instruments or ratification takes place, by an Irish corporation shall be exempt from United States tax except where the recipient is a citizen of or a resident in the United States or a United States corporation.

(2) Dividends and interest paid, on or after the 6th day of April of the first year of assessment specified in Article XXII(2)(b), (i) of this Convention, by a United States corporation shall be exempt from Irish tax except where the recipient is a resident of Ireland.

* * * * *

ARTICLE XX

(1) The taxation authorities of the Contracting Parties shall exchange such information (being information available under the respective taxation laws of the Contracting Parties) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this Article, the term "taxation authorities" means, in the case of the United States, the Commissioner of Internal Revenue or his authorized representative and, in the case of Ireland, the Revenue Commissioners or their authorized representative.

* * * * *

ARTICLE XXII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington, District of Columbia, as soon as possible.

(2) Upon exchange of ratifications, the present Convention shall have effect:

(a) as respects United States tax, for the taxable years beginning on or after the first day of January in the calendar year in

which the exchange of instruments of ratification takes place;

(b)(i) as respects Irish income tax, for the year of assessment beginning on the 6th day of April in the calendar year in which the exchange of instruments of ratification takes place and subsequent years; (ii) as respects Irish surtax, for the year of assessment beginning on the 6th day of April immediately preceding the calendar year in which the exchange of instruments of ratification takes place, and subsequent years; and (iii) as respects Irish corporation profits tax, for any chargeable accounting period beginning on or after the first day of April in the calendar year in which the exchange of instruments of ratification takes place, and for the unexpired portion of any chargeable accounting period current at that date.

ARTICLE XXIII

(1) The present Convention shall continue in effect indefinitely but either of the Contracting Parties may, on or before the 30th day of June in any calendar year following the calendar year in which the exchange of instruments of ratification takes place, give to the other Contracting Party, through diplomatic channels, notice of termination and, in such event, the present Convention shall cease to be effective:

(a) as respects United States tax, for the taxable years beginning on or after the first day of January in the calendar year next following that in which such notice is given;

(b)(i) as respects Irish income tax, for any year of assessment beginning on or after the 6th day of April in the calendar year next following that in which such notice is given; (ii) as respects Irish surtax, for any year of assessment beginning on or after the 6th day of April in the calendar year in which such notice is given; and (iii) as respects Irish corporation profits tax, for any chargeable accounting period beginning on or after the first day of April in the calendar year next following that in which such notice is given and for the unexpired portion of any chargeable accounting period current at that date.

(2) The termination of the present Convention or of any Article thereof shall not have the effect of reviving any treaty or arrangement abrogated by the present Convention or by treaties previously concluded between the Contracting Parties.

(b) As used in this subpart, unless the context otherwise requires, the terms defined in the above articles of the convention shall have the meanings so assigned to them.

§ 513.2 Dividends.

(a) *General.* (1) Under Article VI of the convention the rate of tax imposed

with respect to dividends by section 211(a) of the Internal Revenue Code (relating to nonresident alien individuals not engaged in trade or business within the United States) and by section 231(a) of the Internal Revenue Code (relating to foreign corporations not engaged in trade or business within the United States) is reduced to 15 percent in the case of dividends derived from a United States corporation and received in taxable years beginning on or after January 1, 1951, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is resident in Ireland for the purposes of Irish tax, or by a foreign corporation (whether or not created or organized in or under the laws of Ireland) whose business is managed and controlled in Ireland, if such alien or corporation is subject to Irish tax on such dividends and at no time during the taxable year had a permanent establishment within the United States. As to what is a United States corporation, see Article II (1)(d) of the convention.

(2) Thus, if a nonresident alien who is resident in Ireland for the purposes of Irish tax performs personal services within the United States during the taxable year, has at no time during such year a permanent establishment within the United States, and is subject to Irish tax on a dividend derived by him in such year from a United States corporation, he is entitled to the reduced rate of tax with respect to such dividend, as provided in Article VI of the convention, even though under the provisions of section 211(b) of the Internal Revenue Code he has engaged in trade or business within the United States during such year by reason of his having rendered personal services therein.

(3) The fact that the payee of the dividend is not required to pay Irish tax on such dividend because of the application of reliefs or exemptions under Irish revenue laws does not prevent the application of the reduction in rate of United States tax with respect to such dividend. If the dividend

would have been subject to Irish tax had the payee thereof derived an income large enough to require payment of tax then liability to Irish tax exists for the purpose of the reduction in rate of United States tax. As to what constitutes a permanent establishment, see Article II (1)(l) of the convention.

(4) In the case of dividends paid on or after January 1, 1951, by an Irish corporation, as defined in Article II (1)(e) of the convention, no withholding of United States tax is required. See Article XV (1) of the convention.

(b) *Dividends paid by a United States subsidiary corporation.* (1) Under the proviso of Article VI (1) of the convention dividends derived from a domestic corporation by a foreign corporation whose business is managed and controlled in Ireland and which controls, directly or indirectly, at the time the dividends is paid 95 percent or more of the entire voting power in such domestic corporation are, when received in taxable years beginning on or after January 1, 1951, subject to tax at the rate of only 5 percent, if (i) not more than 25 percent of the gross income of such paying corporation for the three-year period immediately preceding the taxable year in which the dividend is paid consists of dividends and interest (other than dividends and interest paid to such domestic corporation by its own subsidiary corporations, if any), (ii) the relationship between such domestic corporation and such foreign corporation has not been arranged or maintained primarily with the intention of securing such reduced rate of 5 percent, (iii) such foreign corporation is subject to Irish tax on such dividends, and (iv) such foreign corporation at no time during the taxable year had a permanent establishment within the United States.

(2) Any domestic corporation which claims or contemplates claiming that dividends paid or to be paid by it on or after January 1, 1951, are subject only to the 5 percent rate shall file the following information with the Commissioner of Internal Revenue as soon as practicable: (i) The date and place of its organization; (ii) the location of the management and control of the foreign corporation to which the dividends are paid or to be paid; (iii) the number of

outstanding shares of stock of the domestic corporation having voting power and the voting power thereof; (iv) the person or persons beneficially owning such stock of the domestic corporation and their relationship to such foreign corporation; (v) the amount of gross income by years of the domestic corporation for the three-year period immediately preceding the taxable year in which the dividend is paid; (vi) the amount of interest and dividends by years included in the gross income of the domestic corporation, and the amount of interest and dividends by years received by such corporation from its subsidiary corporations, if any; and (vii) the relationship between the domestic corporation and the foreign corporation to which it pays the dividend.

(3) As soon as practicable after such information is filed, the Commissioner of Internal Revenue will determine whether the dividends concerned fall within the scope of the proviso of Article VI(1) of the convention and may authorize the release of excess tax withheld with respect to dividends which come within such proviso. In any case in which the Commissioner of Internal Revenue has notified the domestic corporation that the dividends fall within the scope of such proviso the reduced withholding rate of 5 percent will apply to any dividends subsequently paid by such corporation to the foreign corporation, unless the stock ownership of the domestic corporation, or the character of its income, or the place of management and control of the corporation to which the dividend is paid materially changes; or unless the Commissioner of Internal Revenue determines that the relationship between the two corporations is being maintained primarily with the intention of securing the reduced rate of tax; and, if such change in stock ownership, character of income, or place of management and control occurs, the domestic corporation shall promptly notify the Commissioner of Internal Revenue of the then existing facts with respect thereto. The continued application of the reduced withholding rate is also

dependent upon the continued fulfillment of conditions in subparagraph (1) (iii) and (iv) of this paragraph.

(c) *Effect of address in Ireland on withholding in case of dividends.* For the purpose of withholding of the tax in the case of dividends every nonresident alien (including a nonresident alien individual, fiduciary, and partnership) whose address is in Ireland shall be deemed by United States withholding agents to be a nonresident alien who is (1) resident in Ireland for the purposes of Irish tax, (2) subject to Irish tax on such dividends, and (3) without a permanent establishment in the United States; and every foreign corporation whose address is in Ireland shall be deemed by such withholding agents to be a foreign corporation whose business is managed and controlled in Ireland and which is (i) subject to Irish tax on such dividends and (ii) without a permanent establishment in the United States.

(d) *Rate of withholding.* (1) Withholding at source in the case of dividends derived from a United States corporation and paid on or after January 1, 1952, to nonresident aliens (including a nonresident alien individual, fiduciary, and partnership) and to foreign corporations, whose addresses are in Ireland, shall be at the rate of 15 percent in every case except that in which, prior to the date of payment of such dividends, the Commissioner of Internal Revenue has notified the withholding agent that (i) such dividends fall within the scope of the proviso of Article VI(1) of the convention or (ii) the reduced rate of tax shall not apply.

(2) The preceding provisions respecting the application of the reduced withholding rate in the case of dividends paid to nonresident aliens and foreign corporations with addresses in Ireland are based upon the assumption that the payee of the dividend is the actual owner of the capital stock from which the dividend is derived and consequently is the person liable to United States tax upon such dividend. As to action by the recipient who is not the owner of the dividend, see § 513.8.

(3) The rate at which United States tax has been withheld from any dividend paid on and after thirty days from the date on which this subpart is filed

with the Division of the Federal Register to any person whose address is in Ireland at the time the dividend is paid shall be shown either in writing or by appropriate stamp on the check, draft, or other evidence of payment, or on an accompanying statement.

§ 513.3 Interest.

(a) *General.* (1) Interest (other than interest falling within the scope of paragraph (c) of this section) on bonds, securities, notes, debentures, or any other form of indebtedness, including interest on obligations of the United States, obligations of instrumentalities of the United States, and mortgages and bonds secured by real property, derived from sources within the United States and received in taxable years beginning on or after January 1, 1951, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is resident in Ireland for the purposes of Irish tax, or by a foreign corporation (whether or not created or organized in or under the laws of Ireland) whose business is managed and controlled in Ireland, is exempt from United States tax under the provisions of Article VII(1) of the convention if such alien or corporation is subject to Irish tax on such interest and at no time during the taxable year had a permanent establishment within the United States. Such interest is, therefore, not subject to the withholding provisions of the Internal Revenue Code. As to what constitutes a permanent establishment, see Article II(1) of the convention.

(2) The provisions of § 513.2(a) relating to the degree of liability to Irish tax in the case of dividends are equally applicable with respect to the income falling within the scope of this section.

(b) *Application of exemption from withholding.* (1) To obviate withholding at the source in the case of coupon bond interest the nonresident alien resident in Ireland for the purpose of Irish tax, or the foreign corporation whose business is managed and controlled in Ireland, shall for each issue of bonds submit Form 1001-IR in du-

plicate to the paying agent with each presentation of interest coupons. Such form shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor, the name and address of the owner of such interest, and the amount of such interest. Such form shall contain a statement that the owner (i) is resident in Ireland for the purposes of Irish tax, or is a foreign corporation whose business is managed and controlled in Ireland, (ii) has no permanent establishment in the United States, and (iii) is subject to Irish tax on such interest.

(2) The exemption from United States tax contemplated by Article VII(1) of the convention, insofar as it concerns coupon bond interest, is applicable only to the owner of such interest. The person presenting such coupon, or on whose behalf it is presented, shall for the purpose of the exemption from tax be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon is not the owner of the bond, Form 1001, and not Form 1001-IR, shall be executed.

(3) The original and duplicate ownership certificates, Form 1001-IR, must be forwarded to the Commissioner of Internal Revenue by the withholding agent with the quarterly return on Form 1012, as provided in existing regulations with respect to Form 1001. See § 29.143-7 of Regulations 111 (26 CFR 1949 ed. Supps. 29.143-7 [and § 39.143-7 of Regulations 118 (26 CFR, Rev. 1953, Parts 1-79, and Supps.)] Form 1001-IR need not be listed on Form 1012.

(4) For general provisions pertaining to the use, without reference to the provisions of the convention, of ownership certificate, Form 1001, by non-resident aliens and nonresident foreign corporations, see §§ 29.143-4 and 29.143-6 of Regulations 111 (26 CFR 1949 ed. Supps. 29.143-4 and 29.143-6) [and §§ 39.143-4 and 39.143-6 of Regulations 118 (26 CFR, Rev. 1953, Parts 1-79, and Supps.)]

(5) To obviate withholding at the source in the case of interest, other than interest payable by means of coupons, the nonresident alien resident in Ireland for the purposes of Irish tax, or

the foreign corporation whose business is managed and controlled in Ireland, shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VII(1) of the convention. The letter of notification shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor and the name and address of the owner of such interest. It shall also contain a statement that the owner (i) is resident in Ireland for the purposes of Irish tax, or is a foreign corporation whose business is managed and controlled in Ireland, (ii) has no permanent establishment in the United States, and (iii) is subject to Irish tax on such interest. This letter shall constitute authorization for the payment of such interest without deduction of the tax at source.

(6) The letter of notification in the case of interest, other than interest payable by means of coupons, must be filed for each three-calendar-year period, and the first such letter filed by the taxpayer with any withholding agent shall be filed not later than 20 days preceding the date of the first payment of interest in such period. If the taxpayer files such letter with the withholding agent in the calendar year 1952, or in any subsequent calendar year, no additional letter need be filed prior to the end of the two calendar years immediately following the calendar year in which such letter is so filed unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter must be filed by the taxpayer at any earlier date. If, after filing a letter of notification, the taxpayer ceases to be eligible for the benefit of the convention, he must promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the interest as recorded on the books of the payer, the exemption from United States tax will no longer apply unless a letter of notification is duly executed and filed with the withholding agent by the new owner of record of such interest.

(7) Each letter of notification, or the duplicate thereof, must be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Clearing Branch, Washington 25, D.C.

(8) In the case of interest paid on or after January 1, 1951, by an Irish corporation, as defined in Article II(1)(e) of the convention, no withholding of United States tax is required. See Article XV(1) of the convention.

(c) *Exemption not applicable to interest paid by subsidiary corporation to its parent corporation.* (1) Under the exception contained in Article VII(1) of the convention any interest derived from sources within the United States and paid by a domestic corporation to a foreign corporation whose business is managed and controlled in Ireland is not exempt from United States tax if such foreign corporation controls, directly or indirectly, at the time the interest is paid more than 50 percent of the entire voting power of all classes of stock of such domestic corporation. The exemption from United States tax provided by Article VII(1) of the convention does not, therefore, apply to such interest paid by such domestic corporation.

(2) In any case in which a foreign corporation whose business is managed and controlled in Ireland anticipates the receipt of interest from a domestic corporation and the relationship existing between the foreign corporation and the domestic corporation is such as to render uncertain whether, by reason of the exception contained in Article VII(1) of the convention, the exemption will apply to such interest, the foreign corporation shall not undertake to file any Form 1001-IR or letter of notification prescribed by paragraph (b) of this section unless it has, prior to such filing, applied for and received from the Commissioner of Internal Revenue, Washington 25, D.C., a determination that such foreign corporation does not control, directly or indirectly, more than 50 percent of the entire voting power in the paying corporation. The application to the Commissioner shall contain a full statement of all the facts pertinent to a determination of the question.

(3) As soon as practicable after the application has been filed, the Commis-

sioner of Internal Revenue will determine whether the foreign corporation has such control of the domestic corporation as to render the exemption provided by Article VII(1) of the convention inapplicable to interest paid by such domestic corporation to such foreign corporation and shall notify the foreign corporation of his determination. The foreign corporation shall forthwith file with the domestic corporation a copy of the Commissioner's letter of notification.

(4) If the Commissioner's determination is that the foreign corporation does not control, directly or indirectly, more than 50 percent of the entire voting power of all classes of stock of the domestic corporation, the foreign corporation may thereafter obviate withholding at the source with respect to subsequent payments of such interest by complying with the provisions of paragraph (b) of this section, that is, by submitting Form 1001-IR in the case of coupon bond interest, or the letter of notification for each three-calendar-year period in the case of interest other than interest payable by means of coupons.

(5) A determination of the Commissioner that the foreign corporation does not have such control of the domestic corporation as to render the exemption provided by Article VII(1) of the convention inapplicable will apply until such time as the stock ownership of the domestic corporation has changed to the extent that interest to be received from the domestic corporation by the foreign corporation is no longer exempt from United States tax under Article VII(1) of the convention. If such change in stock ownership occurs, the foreign corporation shall promptly notify both the Commissioner of Internal Revenue and the domestic corporation of the then existing facts with respect to such stock ownership.

(6) In any case in which a foreign corporation whose business is managed and controlled in Ireland has received on or after January 1, 1952, interest from a domestic corporation and the relationship existing between the foreign corporation and the do-

mestic corporation was at the time the interest was paid such as to render uncertain whether, by reason of the exception contained in Article VII(1) of the convention, such interest was exempt from United States tax, the foreign corporation shall apply to the Commissioner of Internal Revenue for a similar determination as to the degree of control at the time the interest was paid. If the Commissioner's determination is that at such time the degree of control was such as to permit the application of the exemption provided by Article VII(1) of the convention, his letter of notification may, subject to the provisions of §513.7(e), authorize the release of excess tax withheld with respect to such exempt interest.

§513.4 Patent and copyright royalties and film rentals.

(a) Royalties and other amounts (including rentals for the use of, or for the right to use, motion picture films) derived from sources within the United States and received in taxable years beginning on or after January 1, 1951, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is resident in Ireland for the purposes of Irish tax, or by a foreign corporation (whether or not created or organized in or under the laws of Ireland) whose business is managed and controlled in Ireland, when paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulae, trade-marks, and other like property, are exempt from United States tax under the provisions of Article VIII(1) and (3) of the convention if such alien or corporation is subject to Irish tax on such income and at no time during the taxable year had a permanent establishment within the United States. Such items of income are, therefore, not subject to the withholding provisions of the Internal Revenue Code. As to what constitutes a permanent establishment, see Article II(1)(l) of the convention.

(b) The provisions of §513.2(a) relating to the degree of liability to Irish tax in the case of dividends are equally applicable with respect to the income falling within the scope of this section.

(c) To obviate withholding at the source in the case of such items the nonresident alien resident in Ireland for the purposes of Irish tax, or the foreign corporation whose business is managed and controlled in Ireland, shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VIII of the convention. The provisions of §513.3(b) relating to the execution, filing, and effective period of the letter of notification prescribed therein with respect to interest are equally applicable with respect to the income falling within the scope of this section.

(d) Each letter of notification, or the duplicate thereof, must be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Clearing Branch, Washington 25, D.C.

§513.5 Natural resource royalties and real property rentals.

(a) Under Article IX of the convention the rate of tax imposed with respect to natural resource royalties and real property rentals by section 211(a) of the Internal Revenue Code (relating to nonresident alien individuals not engaged in trade or business within the United States) and by section 231(a) of the Internal Revenue Code (relating to foreign corporations not engaged in trade or business within the United States) is reduced to 15 percent in the case of royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and in the case of rentals from real property or from an interest in such property, derived from sources within the United States and received in taxable years beginning on or after January 1, 1951, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is resident in Ireland for the purposes of Irish tax, or by a foreign corporation (whether or not created or organized in or under the laws of Ireland) whose business is managed and controlled in Ireland, if such alien or corporation is subject to Irish tax

on such income and at no time during the taxable year had a permanent establishment within the United States. As to what constitutes a permanent establishment, see Article II(1)(l) of the convention.

(b) The provisions of § 513.2(a) relating to the degree of liability to Irish tax in the case of dividends are equally applicable with respect to the income falling within the scope of this section.

(c) To secure the reduced rate of tax at the source in the case of such items the nonresident alien resident in Ireland for the purposes of Irish tax, or the foreign corporation whose business is managed and controlled in Ireland, shall notify the withholding agent by letter in duplicate that the rate of United States tax with respect to such income is reduced to 15 percent under the provisions of Article IX of the convention. The provisions of § 513.3(b) relating to the execution, filing, and effective period of the letter of notification prescribed therein with respect to interest are equally applicable with respect to the income falling within the scope of this section.

(d) Each letter of notification, or the duplicate thereof, must be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Clearing Branch, Washington 25, D.C.

§ 513.6 Pensions and life annuities.

(a) Pensions, other than pensions paid by the Government of the United States to individuals in respect of services rendered thereto in the discharge of governmental functions, and any life annuity, derived from sources within the United States in taxable years beginning on or after January 1, 1951, by a nonresident alien individual who is resident in Ireland for the purposes of Irish tax are exempt from United States tax under the provisions of Article XII of the convention.

(b) To obviate withholding at the source in the case of such exempt income the nonresident alien individual who is resident in Ireland for the purposes of Irish tax shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article XII of the convention. The letter of notification shall be signed by

the owner of the income, shall show the name and address of both the payer and the owner, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is resident in Ireland for the purposes of Irish tax. This letter shall constitute authorization for the payment of such income without deduction of the tax at source unless the Commissioner of Internal Revenue subsequently notifies the withholding agent that the tax should be withheld from payments of such income made after receipt of such notice. If, after filing a letter of notification, the owner of the income ceases to be eligible for the benefit of the convention, he must promptly notify the withholding agent by letter in duplicate.

(c) Each letter of notification, or the duplicate thereof, must be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Clearing Branch, Washington 25, D.C.

§ 513.7 Release of excess tax withheld at source.

(a) *General.* (1) In order to bring the convention into force and effect at the earliest practicable date,

(i) The reduced rate of tax of 15 percent to be withheld at the source from dividends, natural resource royalties, and real property rentals, and

(ii) The exemption from tax otherwise withheld at the source from interest, patent royalties, copyright royalties, film rentals, and the like,

are hereby made effective beginning January 1, 1952, in any case in which such natural resource royalties, real property rentals, interest, patent royalties, copyright royalties, film rentals, and the like are derived from sources within the United States, or in which such dividends are derived from a United States corporation, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is resident in Ireland for the purposes of Irish tax, or by a foreign corporation whose business is managed and controlled in Ireland, if such alien or corporation is subject to

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Irish tax on such income and at no time during the taxable year in which such income is so derived had a permanent establishment within the United States.

(2) In the case of every such taxpayer whose address at the time of payment was in Ireland and who furnishes to the withholding agent the letter of notification prescribed in §§ 513.3(b), 513.4, or 513.5, where United States tax at the rate of 30 percent has been withheld on or after January 1, 1952, there shall be released (except as provided in paragraph (e) of this section) by the withholding agent and paid over to the person from whom it was withheld:

(i) In the case of natural resource royalties and real property rentals, an amount equal to 15 percent of such royalties and rentals, and

(ii) In the case of interest (other than coupon bond interest), patent royalties, copyright royalties, film rentals, and the like, an amount equal to the tax so withheld.

(3) In the case of every such taxpayer whose address at the time of payment was in Ireland and who furnishes to the withholding agent Form 1001-IR in duplicate, where United States tax at the rate of 28 percent or 30 percent, as the case may be, has been withheld from coupon bond interest on or after January 1, 1952, there shall be released (except as provided in paragraph (e) of this section) by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax so withheld, if such taxpayer also files in duplicate with the withholding agent as authorization for the release of such amount a Form 1001-IR clearly marked "Substitute". One such substitute form shall be filed in duplicate with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by such taxpayer in the calendar year in which the excess tax is released. The use of Form 1001-IR with each presentation of interest coupons for the purpose of obviating withholding of tax at source is set forth in § 513.3(b).

(4) In the case of dividends derived from a United States corporation and paid to a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) or to a foreign cor-

poration, whose address at the time of payment was in Ireland, where United States tax at the rate of 30 percent has been withheld from such dividends on or after January 1, 1952, there shall be released (except as provided in paragraph (d) of this section) by the withholding agent and paid over to the person from whom it was withheld an amount equal to 15 percent of such dividends.

(b) *Amounts withheld during 1951.* For provisions respecting the refund of excess tax withheld during the calendar year 1951, see § 513.11.

(c) *Pensions and life annuities.* (1) In order to bring the convention into force and effect at the earliest practicable date the exemption from tax otherwise withheld at the source from life annuities and pensions, other than pensions paid by the Government of the United States to individuals in respect of services rendered thereto in the discharge of governmental functions, is hereby made effective beginning January 1, 1952, in any case in which such pensions and life annuities are derived from sources within the United States by a nonresident alien individual who is resident in Ireland for the purposes of Irish tax.

(2) In the case of every such taxpayer whose address at the time of payment was in Ireland and who furnishes to the withholding agent the letter of notification prescribed in § 513.6, where United States tax at the rate of 30 percent has been withheld on or after January 1, 1952, from such pensions or life annuities, as the case may be, there shall be released by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax so withheld.

(d) *Subsidiary's dividends.* (1) United States tax shall be withheld at the rate of 15 percent from any dividend derived from a United States corporation and paid on or after January 1, 1952, to a foreign corporation whose address is in Ireland unless, prior to the date of payment thereof, the Commissioner of Internal Revenue notifies the domestic corporation that such

dividend falls within the scope of the proviso of Article VI(1) of the convention.

(2) In the case of every domestic corporation receiving notification from the Commissioner of Internal Revenue under the provisions of § 513.2(b) that dividends paid or to be paid by it fall within the scope of the proviso of Article VI(1) of the convention, where United States tax in excess of the applicable rate of 5 percent has been withheld on or after January 1, 1952, from dividends which come within the scope of such proviso, the withholding agent shall, if so authorized in such notification, release and pay over to the foreign corporation from which it was withheld the excess tax withheld with respect to such dividends.

(e) *Interest paid where degree of stock ownership is determined.* In the case of every foreign corporation whose address at the time of payment was in Ireland and which (1) furnishes to the domestic corporation a copy of the Commissioner's authorization of release prescribed in § 513.3(c) and (2) files the letter of notification prescribed in § 513.3(b), or the substitute Form 1001-IR prescribed in paragraph (a) of this section, whichever is applicable, where United States tax at the rate of 28 percent or 30 percent, as the case may be, has been withheld on or after January 1, 1952, the withholding agent shall release and pay over to the foreign corporation from which it was withheld an amount equal to the tax so withheld.

§ 513.8 Addressee not actual owner.

(a) If any person with an address in Ireland who receives a dividend from a United States corporation with respect to which United States tax at the rate of only 15 percent has been withheld at source is a nominee or representative through whom such dividend flows to a person other than one described in § 513.2(a) as being entitled to such reduced rate of 15 percent, such recipient in Ireland will withhold an additional amount of United States tax equivalent to the difference between the United States tax which would have been withheld had the convention not been in effect (30 percent as of the date of approval of this subpart) and the 15 percent withheld at the source with re-

spect to such dividend pursuant to § 513.2(d).

(b) In any case in which a fiduciary or partnership with an address in Ireland receives, otherwise than as a nominee or representative, a dividend from a United States corporation with respect to which United States tax at the rate of only 15 percent has been withheld at source, if a beneficiary of such fiduciary or a partner in such partnership is not entitled to the reduced rate of tax provided in Article VI(1) of the convention, the fiduciary or partnership will withhold an additional amount of United States tax with respect to the portion of such dividend included in such beneficiary's share of the distributed or distributable income, or in such partner's distributive share of the income, of such fiduciary or partnership, as the case may be. The amount of the additional tax is to be calculated in the same manner as under paragraph (a) of this section.

(c) If any amount of United States tax is released pursuant to § 513.7(a) by the withholding agent in the United States with respect to a dividend received by such a person with an address in Ireland, the latter will also withhold from such released amount any additional amount of United States tax, otherwise required to be withheld by the preceding provisions of this section in respect of such dividend, in the same manner as if at the time of payment of such dividend United States tax at the rate of only 15 percent had been withheld at source therefrom.

(d) The amounts so withheld by such withholding agents in Ireland will be deposited, without converting such amounts into United States dollars, with the Irish Revenue Commissioners on or before the 15th day after the close of the calendar year quarter in which such withholding in Ireland occurs. Each withholding agent making such deposit will render therewith the appropriate Irish form as prescribed in regulations made by the Revenue Commissioners. The Revenue Commissioners have arranged that the amounts so deposited will be remitted by draft in United States dollars to

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the District Director of Internal Revenue, Baltimore, Maryland, U.S.A., on or before the end of the calendar month in which the deposits are made, such draft to be accompanied by the Irish form rendered by the withholding agents in Ireland in connection with such deposits.

§ 513.9 Information to be furnished in ordinary course.

In compliance with the provisions of Article XX of the convention the Commissioner of Internal Revenue will transmit to the Irish Revenue Commissioners, as soon as practicable after the close of the calendar year 1952 and of each subsequent calendar year during which the convention is in effect, the following information relating to such preceding calendar year:

(a) The name and address of each person whose address as disclosed on each available Form 1042 is in Ireland deriving from sources within the United States dividends, interest, rent, royalties, salaries, wages, pensions, annuities, and other fixed or determinable annual or periodical income; and the amount of such income as disclosed on such form with respect to each such person.

(b) The duplicate copy of each available ownership certificate, Form 1001-IR, filed pursuant to § 513.3(b), and substitute Form 1001-IR, filed pursuant to § 513.7(a), in connection with coupon bond interest.

§ 513.10 Beneficiaries of a domestic estate or trust.

A nonresident alien who is resident in Ireland for the purposes of Irish tax and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption from, or reduction in the rate of, United States tax provided in Articles VI, VII, VIII, IX, and XV of the convention with respect to dividends, interest, royalties, natural resource royalties, and real property rentals to the extent such item or items are included in his share of the distributed or distributable income of such estate or trust. In order to be entitled in such instance to the exemption from, or reduction in the rate of, tax such beneficiary must otherwise satisfy the requirements of these respective Articles

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of the convention and must, where applicable, execute and submit to the fiduciary of such estate or trust in the United States the appropriate letter of notification prescribed in §§ 513.3(b), 513.4, and 513.5.

§ 513.11 Refund of income tax withheld during 1951.

(a) If United States tax withheld at the source during the year 1951 from dividends, interest, royalties, natural resource royalties, real property rentals, pensions, or life annuities is in excess of the tax imposed by Chapter 1 (relating to the income tax) of the Internal Revenue Code, as modified by the convention, claim by the taxpayer for the refund of any overpayment shall be made under section 322 of the Internal Revenue Code by filing Form 843 together with Form 1040NB, Form 1040NB-a, Form 1040B, or Form 1120NB, whichever is applicable, or with an amended return.

(b) The taxpayer's total gross income from sources within the United States, including every item of capital gain subject to tax under the provisions of section 211(a)(1)(B) or 211(c) of the Internal Revenue Code, shall be disclosed on the return. In the event that securities are held in the name of a person other than the actual or beneficial owner, the name and address of such person must be furnished with the claim. There shall also be included in such claim for refund a statement:

(1) That the taxpayer was, at the time when the item or items of income were derived, (i) a nonresident alien (including a nonresident alien individual, fiduciary, or partnership) who at such time was resident in Ireland for the purposes of Irish tax, or (ii) a foreign corporation whose business at such time was managed and controlled in Ireland.

(2) That the taxpayer at no time during the taxable year in which the income was derived had a permanent establishment in the United States.

(3) That the taxpayer is subject to Irish tax on the item or items of income for which the benefit of the convention is claimed.

(c) If, however, the taxpayer is an individual who during the taxable year derived from sources within the United States income which consists exclusively of pensions or life annuities entitled to the benefit of Article XII of the convention, the statements specified in paragraph (b) (2) and (3) of this section will not be required.

(d) As to additional information required in the case of a foreign corporation claiming the benefit of the 5 percent rate on dividends, or in certain doubtful cases the benefit of the exemption with respect to interest, paid by a domestic corporation, see § 513.2(b) or § 513.3(c).

PART 514—FRANCE

Subpart—Withholding of Tax

TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1956, AND BEFORE JANUARY 1, 1967, OR DIVIDENDS, INTEREST, AND ROYALTIES PAID BEFORE AUGUST 11, 1968

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- 514.3 Dividends received by addressee not actual owner.
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Subpart—General Income Tax

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- 514.106 Control of a domestic enterprise by a French enterprise.
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- 514.115 Adjustment of tax liability of residents of France and French corporations.
- 514.116 Reciprocal administrative assistance.
- 514.117 Reciprocal regulations.

Subpart—Withholding of Tax

AUTHORITY: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1956, AND BEFORE JANUARY 1, 1967, OR DIVIDENDS, INTEREST, AND ROYALTIES PAID BEFORE AUGUST 11, 1968

SOURCE: Treasury Decision 6273, 22 FR 9530, Nov. 28, 1957; 25 FR 14022, Dec. 31, 1960, unless otherwise noted.

§ 514.1 Introductory.

(a) *Applicable provisions of convention.* The income tax convention between the United States and France, signed on July 25, 1939, and October